

FILED

FEB 23 2010

CLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MARK J. WHALING,
Plaintiff

vs.

ERIE COUNTY PRISON, et. al.,
Defendants

) CIVIL ACTION No. 1:08-cv-210-SJM-SRB

) MAGISTRATE JUDGE SUSAN PARADISE BAKER

) DISTRICT JUDGE SEAN J. McLAUGHLIN

MOTION FOR EXTENSION OF TIME

AND NOW, comes, MARK J. WHALING, pro-se plaintiff in the above captioned matter, who moves this Honorable Court for an extension of time in which to file a response to 35 motion for reconsideration, and in support thereof, plaintiff avers as follows:

- 1.) That by ORDER of this Honorable Court of Feb. 10, 2010, Plaintiff shall file a response to 35 motion for reconsideration on or before March 2nd, 2010.
- 2.) Plaintiff avers, that, he (Plaintiff) is in the process of being transferred to another state correctional institution unbeknown to plaintiff at this present time.
- 3.) Plaintiff avers, that he (Plaintiff) has been in administrative custody since the beginning of Feb. 2010 and has not had any access to the law library since being housed in administrative custody, thus, violating the standards set forth in MARANGE -VS- FORTENOT, 879 F.Supp. 679 (E.D. TEX 1995).

4.) Plaintiff AVERS, THAT, BY THE TIME THIS HONORABLE COURT RECEIVES THIS MOTION FOR EXTENSION OF TIME Plaintiff SHOULD HAVE BEEN TRANSFERRED OR WILL BE TRANSFERRED SHORTLY THEREAFTER, ACCORDING TO THE PROGRAM REVIEW COMMITTEE HERE AT SCI-FRACKVILLE.

5.) Plaintiff AVERS, THAT, IT IS APPARENT IN THIS HONORABLE COURT'S MODIFIED ORDER OF FEB. 3, 2010, THAT Plaintiff HAS AN EIGHT AMENDMENT CLAIM OF CRUEL AND UNUSUAL PUNISHMENT AND CAN PERSIST AS TO THE SAME.

6.) Plaintiff AVERS, THAT IN ACCORDANCE WITH THE MODIFIED ORDER OF FEB. 3, 2010, Plaintiff's MOTION HAS BEEN GRANTED AND DEFENDANTS AREN'T ENTITLED TO IMMUNITY FOR THEIR ACTIONS UNDER PENNSYLVANIA'S POLITICAL SUBDIVISION TORT CLAIMS ACT, 42 PA.C.S.A. §§ 541, ET SEQ. AND THEREFORE, Plaintiff feels THIS ACTION IS RIPE FOR TRIAL.

WHEREFORE, YOUR PRO-SE Plaintiff MARK J. WHALING IN THE INTEREST OF JUSTICE MOVES THIS HONORABLE COURT FOR AN EXTENSION OF TIME IN WHICH TO FILE A RESPONSE TO 35 MOTION FOR RECONSIDERATION

DATED: 2-22, 2010

Respectfully submitted,

ISI Mark Whaling
Mr. Mark J. Whaling #FW-9846
1111 Altamont Blvd.
Frackville, Pa. 17931

MARK J. WHALING #FW9846
PRO-SE Plaintiff

CERTIFICATE OF SERVICE

I, MARK J. WHALING, hereby certify, THAT
I AM THIS DAY SERVING THE FOREGOING MOTION FOR
EXTENSION OF TIME UPON THE PERSON(S) AND IN THE
MANNER LISTED BELOW:

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PA
CLERK'S OFFICE
17 SOUTH
PARK ROW

ERIE, PA 16507
814-464-9600

PATRICK CAHILL, ESQ.
FAX 814-480-7808
717 STATE ST.

ERIE PA SUITE 701
16501 814-455-3603

DATED 2-22, 2010

ALAN S. GOLD, ESQ.
THE PAVILION
261 OLD ROAD
SUITE 526
JENKINTOWN, PA. 19046
215-885-1118

Respectfully Submitted

151 Mark Whaling
MARK J. WHALING, #FW9846
PRO-SE PLAINTIFF